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CAPITAL LEGAL GROUP, LLC
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OFFICE OF PETITIONS

In re Application of
Paul A. Kline
Application No. 10/016,998
Filed: December 14, 2001
Attorney Docket No. CRNT-0034

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181 (no fee), filed on October 31, 2006, requesting withdrawal of the holding of abandonment in the above-identified application.

The above application was held abandoned for failure to timely respond to the non-final Office action mailed April 5, 2006, which set a three (3) month shortened statutory period for reply.

The petition is **DISMISSED**.

A review of the record shows that petitioner failed to submit a proper response to the non-final Office action mailed on April 5, 2006.

Petitioner argues that the Office action mailed April 5, 2006 incorrectly declared that the reply filed on January 18, 2006 was non-responsive. Petitioner further states that after speaking with the Examiner's supervisor and conducting a subsequent interview with the examiner, it was determined that the response filed on January 18, 2006 was responsive and that the examiner would issue a new Office action and that the applicant should await the new Office action.

Petitioner's argument is not persuasive. Petitioner's Interview Summary of May 2, 2006, did not operate to avoid the above application from becoming abandoned. Regardless, of what the supervisor or examiner stated, it was petitioner's responsibility to file a proper response to the non-final Office action mailed on October 18, 2006, within the three months shortened statutory period or before the maximum extendable period for reply expired. An applicant may delay action until the end of the time period for reply. In doing so, however, the applicant must assume the risk attendant to such delay. See Ex parte Warren, 1901 Dec. Comm'r Pat. 137 (Comm'r Pat. 1901).

In view of the above, the application was properly held abandoned.

It is strongly recommended that petitioner file a petition to revive under 37 CFR 1.137(b) and pay the petition fee of \$750. The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

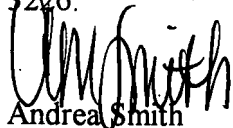
Further correspondence with respect to this matter should be addressed as follows:

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The centralized facsimile number is (571) 273-8300.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.



Andrea Smith
Petitions Examiner
Office of Petitions